

From: Vel Johnson
To: Microsoft ATR
Date: 1/23/02 10:56am
Subject: Microsoft Settlement

TO: The Department of Justice

FROM: The James Madison Institute

Our organization is dedicated to promoting open competition and strongly encourages support of the proposed settlement in the Microsoft Antitrust Case.

Please see our attached editorial letter of endorsement. For additional information please reach us at 800.376.1119. Thank you.

Attachment

CC: Ed Moore

Florida Should Support Free Enterprise and Settle with Microsoft

By Edwin H. Moore

Participation in the Microsoft case by Florida's government has always seemed a bit out of character for a state governed by conservative principles favoring free markets. Now when the prospects of settling this antifree market case are readily available, the attorney general of Florida appears unwilling to join the settlement agreed to by the U.S. Department of Justice. Florida should be a state that encourages innovation, exploration, and progress, not one that acts as a hindrance to these ideals.

Slightly fewer than 200,000 Floridians are Microsoft shareholders. Millions more have benefited from the innovative line of products offered by this creative company. Microsoft has gained a dominant share of the software market because it is very good at what it does. Consumers enjoy their products and willingly buy them. Their products are user-friendly because Microsoft spends almost \$4 billion annually in research and development. Instead of standing in opposition to Microsoft, Florida should be seeking partnerships with a forward looking company, trying to attract it to spend some of its research and development funds in the state.

Attorney General Bob Butterworth has been recognized as a man of trust and respect. He has accomplished this by staying the course on issues that are of great importance to Florida. In the Microsoft situation, it is hard to see where the greater interests of Florida are served by continuing to contest the case. Frankly, it could be easily argued that the settlement places too many restrictions by government on a company that seeks to expand into new markets, create jobs, develop new products, and serve the public. Moreover, Microsoft contributed about \$7 million in charitable contributions to Florida in 2000. The other states that are also resisting settlement here seem to be seeking radical remedies designed to be destructive.

One has to wonder if the intent is to destroy success.

Some states are served by attorneys general who seek to use this case to improve their public position, posing for cameras at every opportunity and doing more posing than policymaking in their approach to this issue. This has not been Butterworth's style. He has never pandered to the media and never appeared to grandstand. Even in this case he has remained low-key and studious. Now is the time for his reflection to determine that this case should be placed on the dust pile of history as a bad idea.

The greatest threat of this case in the first place was that an overzealous, antifree market federal government under the former administration would go too far and force a major breakup of what many consider as one of the most innovative organizations in history.

This scheme was rejected by the appellate court and, with a change in administrations, by the federal plaintiffs as well. The current agreement is acceptable because it serves the public's best interest. Microsoft is forced to disclose part of its code, is limited in how it relates to computer makers, and is forced to fund a technology oversight committee to oversee the settlement,

respond to complaints, and report to the court. The head of the antitrust division of the U.S. Department of Justice has agreed that the public is well served by this agreement stating, "The goals of the government were to obtain relief that stops Microsoft from engaging in unlawful conduct, prevent any recurrence of that conduct in the future, and restore competition in the software market. We have achieved those goals."

It is time for Florida to agree.

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Edwin H. Moore is president and CEO of The James Madison Institute in Tallahassee, a Florida based non partisian, nonprofit research and educational organization.